

AMENDED IN SENATE JUNE 24, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1238

Introduced by Assembly Member Firebaugh

February 21, 2003

An act to amend Sections 34501.12 and 34621 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1238, as amended, Firebaugh. Vehicles: terminal inspections.

(1) Existing law requires the Department of the California Highway Patrol to inspect, at least every 25 months, every terminal of a motor carrier, as defined, that directs the operation of or maintains a commercial vehicle in this state, as specified. Existing law requires each motor carrier to submit an application to the department and either a \$400 or a \$100 fee per terminal, ~~except~~ as specified, in connection with this inspection program.

This bill would increase the amount of the fee for an initial enrollment into the program to \$650 and \$400, respectively, *and would specify that the renewal fees are \$400 and \$100, respectively, per terminal.*

(2) Existing law requires an application for an original or a renewal motor carrier permit to include specified information.

This bill, additionally, would require an application to include evidence of enrollment in the biennial inspection of ~~terminal~~ *terminals* program described under 1 above, unless exempted, and evidence of

enrollment in a controlled substance and alcohol use and testing program as required under existing law, unless exempted.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34501.12 of the Vehicle Code is
2 amended to read:

3 34501.12. (a) Notwithstanding Section 408, as used in this
4 section and Sections 34505.5 and 34505.6, “motor carrier” means
5 the registered owner of any vehicle described in subdivision (a),
6 (b), (e), (f), or (g) of Section 34500, except in the following
7 circumstances:

8 (1) The registered owner leases the vehicle to another person
9 for a term of more than four months. If the lease is for more than
10 four months, the lessee is the motor carrier.

11 (2) The registered owner operates the vehicle exclusively
12 under the authority and direction of another person. If the
13 operation is exclusively under the authority and direction of
14 another person, that other person may assume the responsibilities
15 as the motor carrier. If not so assumed, the registered owner is the
16 motor carrier. A person who assumes the motor carrier
17 responsibilities of another pursuant to subdivision (b) shall
18 provide to that other person whose motor carrier responsibility is
19 so assumed, a completed copy of a department form documenting
20 that assumption, stating the period for which responsibility is
21 assumed, and signed by an agent of the assuming person. A legible
22 copy shall be carried in each vehicle or combination of vehicles
23 operated on the highway during the period for which responsibility
24 is assumed. That copy shall be presented upon request by any
25 authorized employee of the department. The original completed
26 departmental form documenting the assumption shall be provided
27 to the department within 30 days of the assumption. If the
28 assumption of responsibility is terminated, the person who had
29 assumed responsibility shall so notify the department in writing
30 within 30 days of the termination.

31 (b) (1) A motor carrier may combine two or more terminals for
32 purposes of the inspection required by subdivision (d) subject to
33 all of the following conditions:



(A) The carrier identifies to the department, in writing, each terminal proposed to be included in the combination of terminals for purposes of this subdivision prior to an inspection of the designated terminal pursuant to subdivision (d).

(B) The carrier provides the department, prior to the inspection of the designated terminal pursuant to subdivision (d), a written listing of all its vehicles of a type subject to subdivision (a), (b), (e), (f), or (g) of Section 34500 that are based at each of the terminals combined for purposes of this subdivision. The listing shall specify the number of vehicles of each type at each terminal.

(C) The carrier provides to the department at the designated terminal during the inspection all maintenance records and driver records and a representative sample of vehicles based at each of the terminals included within the combination of terminals.

(2) If the carrier fails to provide the maintenance records, driver records, and representative sample of vehicles pursuant to subparagraph (C) of paragraph (1), the department shall assign the carrier an unsatisfactory terminal rating and require a reinspection to be conducted pursuant to subdivision (h).

(3) For purposes of this subdivision, the following terms have the meanings given:

(A) “Driver records” includes pull notice system records, driver proficiency records, and driver timekeeping records.

(B) “Maintenance records” includes all required maintenance, lubrication, and repair records and drivers’ daily vehicle condition reports.

(C) “Representative sample” means the following, applied separately to the carrier’s fleet of motortrucks and truck tractors and its fleet of trailers:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

(c) Each motor carrier who, in this state, directs the operation of, or maintains, any vehicle of a type described in subdivision (a) shall designate one or more terminals, as defined in Section 34515, in this state where vehicles can be inspected by the department pursuant to paragraph (4) of subdivision (a) of Section 34501 and where vehicle inspection and maintenance records and driver records will be made available for inspection.

(d) (1) The department shall inspect, at least every 25 months, every terminal, as defined in Section 34515, of any motor carrier who, at any time, operates any vehicle described in subdivision (a).

(2) The department shall place an inspection priority on those terminals operating vehicles listed in subdivision (g) of Section 34500.

(3) As used in this section and in Sections 34505.5 and 34505.6, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating (GVWR) of the towing vehicle exceeds 10,000 pounds, but does not include a pickup truck, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous material for which the display of placards is required pursuant to Section 27903, a license is required pursuant to Section 32000.5, or for which hazardous waste transporter registration is required pursuant to Section 25163 of the Health and Safety Code. Historical vehicles, as described in Section 5004, vehicles that display special identification plates in accordance with Section 5011, implements of husbandry and farm vehicles, as defined in Chapter 1 (commencing with Section 36000) of Division 16, and vehicles owned or operated by an agency of the federal government are not subject to this section or to Sections 34505.5 and 34505.6.

(e) (1) It is the responsibility of the motor carrier to schedule with the department the inspection required by subdivision (d). The motor carrier shall submit an application form supplied by the department, accompanied by the required fee. The fee, which is nonrefundable, for a carrier that initially enrolls into the program, is six hundred fifty dollars (\$650) per terminal. The initial fee is four hundred dollars (\$400) for an owner-operator, or a nonregulated motor carrier that owns, leases, or otherwise operates not more than one heavy power unit and not more than three towed vehicles described in subdivision (a), (b), (e), (f), or (g) of Section 34500. The renewal fee, which is nonrefundable, is

four hundred dollars (\$400) per terminal, except in the case of an owner-operator, or a nonregulated motor carrier who owns, leases, or otherwise operates not more than one heavy power unit and not more than three towed vehicles described in subdivision (a), (b), (e), (f), or (g) of Section 34500, for which the fee shall be one hundred dollars (\$100). Federal, state, and local public entities are exempt from the fee requirements of this section.

(2) Except as provided in paragraph (4), the inspection term for each inspected terminal of a motor carrier shall expire 25 months from the date the terminal receives a satisfactory compliance rating, as specified in subdivision (h). Applications and fees for subsequent inspections shall be submitted not earlier than nine months and not later than seven months before the expiration of the motor carrier's then current inspection term. If the motor carrier has submitted the inspection application and the required accompanying fees, but the department is unable to complete the inspection within the 25-month inspection period, then no additional fee shall be required for the inspection requested in the original application.

(3) All fees collected pursuant to this subdivision shall be deposited in the Motor Vehicle Account in the State Transportation Fund. An amount equal to the fees collected shall be available for appropriation by the Legislature from the Motor Vehicle Account to the department for the purpose of conducting truck terminal inspections and for the additional roadside safety inspections required by Section 34514.

(4) To avoid the scheduling of a renewal terminal inspection pursuant to this section during a carrier's seasonal peak business periods, the current inspection term of a terminal that has paid all required fees and has been rated satisfactory in its last inspection may be reduced by not more than nine months if a written request is submitted by the carrier to the department at least four months prior to the desired inspection month, or at the time of payment of renewal inspection fees in compliance with paragraph (2), whichever date is earlier. A motor carrier may request this adjustment of the inspection term during any inspection cycle. A request made pursuant to this paragraph shall not result in a fee proration and does not relieve the carrier from the requirements of paragraph (2).

(f) It is unlawful for a motor carrier to operate any vehicle subject to this section without having submitted an inspection application and the required fees to the department as required by subdivision (e) or (h).

(g) It is unlawful for any motor carrier to operate any vehicle subject to this section after submitting an inspection application to the department, without the inspection described in subdivision (d) having been performed and a safety compliance report having been issued to the motor carrier within the 25-month inspection period or within 60 days immediately preceding the inspection period.

(h) (1) Any inspected terminal that receives an unsatisfactory compliance rating shall be reinspected within 120 days after the issuance of the unsatisfactory compliance rating.

(2) A terminal's first required reinspection under this subdivision shall be without charge unless one or more of the following is established:

(A) The motor carrier's operation presented an imminent danger to public safety.

(B) The motor carrier was not in compliance with the requirement to enroll all drivers in the pull notice program pursuant to Section 1808.1.

(C) The motor carrier failed to provide all required records and vehicles for a consolidated inspection pursuant to subdivision (b).

(3) If the unsatisfactory rating was assigned for any of the reasons set forth in paragraph (2), the carrier shall submit the required fee as provided in paragraph (4).

(4) Applications for reinspection pursuant to paragraph (3) or for second and subsequent consecutive reinspections under this subdivision shall be accompanied by the fee specified in paragraph (1) of subdivision (e) and shall be filed within 60 days of issuance of the unsatisfactory compliance rating. The reinspection fee is nonrefundable.

(5) When a motor carrier's Motor Carrier of Property Permit or Public Utilities Commission operating authority is suspended as a result of an unsatisfactory compliance rating, the department shall conduct no reinspection until requested to do so by the Department of Motor Vehicles or the Public Utilities Commission, as appropriate.

1 (i) It is the intent of the Legislature that the department make
2 its best efforts to inspect terminals within the resources provided.
3 In the interest of the state, the Commissioner of the California
4 Highway Patrol may extend for a period not to exceed six months
5 the inspection terms beginning prior to July 1, 1990.

6 (j) To encourage motor carriers to attain continuous
7 satisfactory compliance ratings, the department may establish and
8 implement an incentive program consisting of the following:

9 (1) After the second consecutive satisfactory compliance rating
10 assigned to a motor carrier terminal as a result of an inspection
11 conducted pursuant to subdivision (d), and after each consecutive
12 satisfactory compliance rating thereafter, an appropriate
13 certificate, denoting the number of consecutive satisfactory
14 ratings, shall be awarded to the terminal, unless the terminal has
15 received an unsatisfactory compliance rating as a result of any
16 inspection conducted in the interim between the consecutive
17 inspections conducted under subdivision (d), or the motor carrier
18 is rated unsatisfactory by the department following a controlled
19 substances and alcohol testing program inspection. The certificate
20 authorized under this paragraph shall not be awarded for
21 performance in the administrative review authorized under
22 paragraph (2). However, the certificate shall include a reference to
23 any administrative reviews conducted during the period of
24 consecutive satisfactory ratings.

25 (2) Unless the department's evaluation of the motor carrier's
26 safety record indicates a declining level of compliance, a terminal
27 that has attained two consecutive satisfactory compliance ratings
28 assigned following inspections conducted pursuant to subdivision
29 (d) is eligible for an administrative review in lieu of the next
30 required inspection, unless the terminal has received an
31 unsatisfactory compliance rating as a result of any inspection
32 conducted in the interim between the consecutive inspections
33 conducted under subdivision (d). An administrative review shall
34 consist of all of the following:

35 (A) A signed request by a terminal management representative
36 requesting the administrative review in lieu of the required
37 inspection containing a promise to continue to maintain a
38 satisfactory level of compliance for the next 25-month inspection
39 term.

(B) A review with a terminal management representative of the carrier's record as contained in the department's files. If a terminal has been authorized a second consecutive administrative review, the review required under this subparagraph is optional, and may be omitted at the carrier's request.

(C) Absent any cogent reasons to the contrary, upon completion of the requirements of subparagraphs (A) and (B), the safety compliance rating assigned during the last required inspection shall be extended for 25 months.

(3) Not more than two administrative reviews may be conducted consecutively. At the completion of the 25-month inspection term following a second administrative review, a terminal inspection shall be conducted pursuant to subdivision (d). If this inspection results in a satisfactory compliance rating, the terminal shall again be eligible for an administrative review in lieu of the next required inspection. If the succession of satisfactory ratings is interrupted by any rating of other than satisfactory, irrespective of the reason for the inspection, the terminal shall again attain two consecutive satisfactory ratings to become eligible for an administrative review.

(4) As a condition for receiving the administrative reviews authorized under this subdivision in lieu of inspections, and in order to ensure that compliance levels remain satisfactory, the motor carrier shall agree to accept random, unannounced inspections by the department.

(k) This section shall be known and may be cited as the Biennial Inspection of Terminals Program or BIT.

SEC. 2. Section 34621 of the Vehicle Code is amended to read:

34621. (a) The fee required by Section 7232 of the Revenue and Taxation Code shall be paid to the department upon initial application for a motor carrier permit and for annual renewal.

(b) An application for an original or a renewal motor carrier permit shall contain all of the following information:

(1) The full name of the motor carrier; any fictitious name under which it is doing business; address, both physical and mailing; and business telephone number.

(2) Status as individual, partnership, owner-operator, or corporation, and officers of corporation and all partners.

1 (3) Name, address, and driver's license number of
2 owner-operator.

3 (4) California carrier number, number of commercial motor
4 vehicles in fleet, interstate or intrastate operations, State Board of
5 Equalization, federal Department of Transportation or Interstate
6 Commerce Commission number, as applicable.

7 (5) Transporter or not a transporter of hazardous materials or
8 petroleum.

9 (6) Evidence of financial responsibility.

10 (7) Evidence of workman's compensation coverage, if
11 applicable.

12 (8) Evidence of enrollment in the biennial inspection of
13 ~~terminal programs~~ *terminals program* under subdivisions (d) to
14 (j), inclusive, of Section ~~35401.12~~ *34501.12*, unless otherwise
15 exempted.

16 (9) Evidence of enrollment in a controlled substance and
17 alcohol use and testing program required under Section 34520,
18 unless otherwise exempted.

19 (10) Any other information necessary to enable the department
20 to determine whether the applicant is entitled to a permit.

